IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

S.B.CIVIL WRIT PETITION NO.1360/1999.

Laxmi Kanwar.

VERSUS

The Regional Transport Authority, Jaipur Region, Jaipur.

14.12.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.Sandeep Pathak, for the petitioner.
Mr.B.K.Sharma, Deputy Government Advocate.

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The petitioner in this writ petition has challenged the order (Annexure-5) dated 15.02.1999 which reads as under:-

"राजस्थार सरकार,
परिवहन विभाग,
क्रमांक :-परि/एम.आर.टी.ए/99/1 जयपुर दिनांक 15.2.99

सचिव,
प्रादेशिक परिवहन प्राधिकार,
जयपुर।

विषय:- सवाई माधोपुर से श्योपुर अन्तर्राज्यीय मार्ग का अनुज्ञापत्र जारी करने बाबत । वाहन संख्या : आरजे-25/पी-0267/88

प्रसंग:- आपका पत्र क्रमांक परि/प्राधि/99/7 दिनांक 9.2.99 के सम्बन्ध में ।

उपरोक्त विषयान्तर्गत उक्त प्रकरण में दिनांक 14.12.98 को आदेश दिये गये थे लेकिन माननीय उच्च न्यायालय जोधपुर एस.बी.सिविल रिट याचिका संख्या 3313/1998, 1279/1998, 1488/1998 एवं 1621/1998 में पारित निर्णय दिनांक 18.11.1998 के अनुसार प्राधिकार के स्तर पर अन्तर्राज्यीय मार्गो के सम्बन्ध में समझौते के अन्तर्गत निर्धारित स्कोप के अनुसार ही अनुज्ञापत्र स्वीकृत किये जा सकते हैं । समझौते में निर्धारित स्कोप के बाहर अनुज्ञापत्र उक्त निर्णय के पश्चात् स्वीकृत नहीं किये जा सकते, ऐसी स्थिति में प्राधिकार द्वारा आवेदक के पक्ष में सवाई माधोपुर से श्योपुर अन्तर्राज्यीय मार्ग पर अनुज्ञापत्र स्वीकृति आदेश दिनांक 14.12.98 माननीय उच्च न्यायालय के निर्णय को दृष्टिगत रखते हुए जारी नहीं किये जावें ।

Sd/-
(जी.एल.गुप्ता)
सदस्य,
प्रादेशिक परिवहन प्राधिकार"

At the time when the writ petition came up for admission, it was submitted that the matter is under consideration before the Division Bench, as such, on 22.03.1999 following order was passed:-

> "Counsel for petitioner submits that against the judgment dated 18/11/1998 passed by this Court at the Principal Seat at Jodhpur, a D.B.Special Appeal had already been filed by the State Government and after hearing arguments the judgment has been reserved in that matter. Since the impugned order has been passed on the basis of judgment dated 18/11/1998, let the matter be put up after two weeks."

Thereafter, the matter came up before the court on 15.07.1999. On the said date after hearing learned counsel for the petitioner, this court passed following order:-

> "Heard learned counsel for the petitioner at length. During the course of hearing, Mr.Vyas, learned counsel for the petitioner has placed reliance upon the Division Bench's judgment of this Court in the matters of 1993(1) RLW 42 : Sunil Kumar Ajmera & Another Vs. Secretary, State Transport Company, Gwalior & Ors. And 1996 (1) WLC 500 : New Vijay Laxmi Bhambhu Transport Company and Another Vs. State Transport Commissioner and ors. Wherein, contrary view has been taken by the Division Bench though similar controversy has been involved regarding Inter State Carriage Permit. Learned counsel for the petitioner has made a statement at the bar that the impugned judgment & order of the learned Single Judge in the matter of Zamindara Motor Transport Cooperative Society Vs. RTA Bikaner and ors. : 1999(1) WLC 348 is already subject-matter before another Division Bench at the Principal Seat at Jodhpur in which notices have been issued to the non-petitioners.

> Heard. Admit. Issue notice. Notice of stay application be also issued, Rule is made returnable within four weeks.
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> Meanwhile, the impugned-order dated 15.2.1999 (Annexure-5) passed by RTA Jaipur shall remain stayed. The respondents are directed to provisionally issue Inter State Carriage Permit to the petitioner for plying the vehicle for the route Sawai Madhopur to Sheopur as per Annexure-2. This, however shall be subject to the final result of this writ petition."

When the writ petition came up for hearing, learned counsel for the petitioner was asked to state before the court whether the Division Bench has decided the matter arising out of the aforesaid judgment, referred in the said order. Learned counsel for the petitioner submitted that the controversy has since been settled by the judgment of this court reported in 2001(3) RLW 1 in the case of State of Rajasthan and Others Vs. Gyan Singh and 23 Another decided on 29.08.2000.

Learned Deputy Government Advocate has drawn the attention of the court to the reply filed by the respondents and contended that it has clearly been laid down by this court in the judgment passed in S.B.Civil Writ Petition No.3313/1998 decided on 18.11.1998 that no permit over and above the scope fixed for the Inter State agreement can be issued. Learned Deputy Government Advocate has also drawn the attention of the court to the case of Zamindara Motor Transport Cooperative Society Vs. R.T.A., Bikaner & Others reported in 1999(1) WLC 348. He has pointed out that as per the aforesaid judgment of this court in Zamindara Motor Transport Cooperative Society, in

the case of Inter State Permits, it has been held by this court that grant of permits on Inter State Route is governed by the Inter State Agreements and the authorities are not competent to grant permits over and above the limits fixed by the Inter State Agreements and that in case if such permits are granted over and above the fixed limit are invalid.

I have heard learned counsel for the parties and perused the judgment cited by the learned counsel for the parties. In the instant case, the order (Annexure-5) is clearly based upon the principles which have been laid down in the case of Zamidara Motor Transport Cooperative Society (supra) wherein at para 20 it has been laid down by this court as follows:-

> "20. If the judgment of the Supreme Court in Mithlesh Garg and Janta Motor Transport (supra) are read together and their cumulative effect is considered, one may reach the irresistible conclusion that grant of permits on inter-State route is governed by an entirely different and special procedure, i.e., inter-State agreement and further puts an embargo on the Transport Authorities not to grant any permit over and above the ceiling fixed by the inter-State agreement and if an authority grants a permit over and above the ceiling limit, it would be invalid for the want of competence and the other Authority is not bound to consider the application for grant of counter-signature."

In the light of the above if the impugned order which has been quoted above is to be seen, the irresistible conclusion which can be arrived is that the aforesaid order (Annexure-5) is in total

infirmity with the law laid down by this court in the case of Zamidara Motor Transport Cooperative Society (supra).

In view of the above, no exception can be taken to the order (Annexure-5). So far as the submission of the learned counsel for the petitioner is concerned based upon the case of Punjab Travels Co. Vs. Union of India & Ors. reported in RLW 2001(3) Raj. 1 a look at the above judgment goes to show that the same pertains to the levy of special road tax under clause 4-B and in the aforesaid case, the question of grant of permits over and above the ceiling fixed for the Inter State Agreements has not at all been dealt with, as such, the aforesaid judgment has no application whatsoever to the facts and circumstances of the present case.

In view of the above, there is no merit in this writ petition and the same is hereby dismissed. The application dated 29.09.1999 for impleadment and the application under Article 226(3) of the Constitution of India also stand disposed of. The stay application also stands disposed of.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.